



**A REGULAR MEETING
OF THE WESLACO CITY COMMISSION
TUESDAY, JANUARY 19, 2016**

NOTICE IS HEREBY GIVEN THAT the City Commission of the City of Weslaco, Texas will hold a Regular Meeting in the Legislative Chamber of City Hall, located at 255 South Kansas Avenue, on Tuesday, January 19, 2016 at 5:30 p.m. for the purpose of discussing the following items:

NOTE: If during the course of the meeting, any discussion of any item on the agenda should be held in executive or closed session, the Weslaco City Commission will convene in such executive or closed session whether or not such item is posted as an executive session item at any time during the meeting when authorized by the provisions of the Texas Open Meetings Act.

I. CALL TO ORDER

Pages
1-2

- A. Certification of Public Notice.
- B. Invocation.
- C. Pledge of Allegiance.
- D.. Roll Call.

II. PUBLIC COMMENTS

The Public Comments portion of the meeting promotes a fair and open process for the governance of the City. This portion of the meeting is not intended to be an extended discussion or a debate and is limited to three minutes for each presenter. Due to the Texas Open Meetings Act, the Mayor and City Commissioners do not reply; they listen. Matters under litigation are not to be addressed and comments regarding specific City employees and elected officials may be prohibited.

If you are discussing something not included on the agenda, the Commission cannot take any formal action until it is placed on an agenda and notice of the meeting is properly posted. Registration for Public Comments must be submitted to the City Secretary before the City Commission meeting is called to order. As the Mayor calls upon those who submitted a registration form with the City Secretary, please step to the podium and state your name and address before beginning your presentation.

III. PUBLIC HEARINGS

- A. To solicit input on behalf of Murphy Oil USA, Inc. for a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premises Permit at 215 E. Interstate 2, also being Lot 1B, Block 1, Replat of Walmart Subdivision, Weslaco, Hidalgo County, Texas. 3
- B. To solicit input on behalf of 422 E. 18th Street, LLC for a Conditional Use Permit to operate an assisted living facility at 422 E. 18th St., also being Lot 1, Regency Subdivision, Weslaco, Hidalgo County, Texas. 4
- C. To solicit input on behalf of Montana Garcia for a Conditional Use Permit to operate a daycare at 915 E. Sugarcane Dr., also being 0.37 acres 5

S200.88'-E80'-W211' out of Farm Tract 58, West Tract Subdivision, Weslaco, Hidalgo County, Texas.

- D. To solicit input on behalf of Primitas, 7 LP to rezone 1501 N. Border Ave., also being 20.00 acres out of Farm Tract 131, West Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling District to R-2 Duplex and Apartments District. 6

IV. **CONSENT AGENDA**

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the Minutes of the Regular Meeting on January 5, 2016 (Staffed by City Secretary's Office.) Attachment. 7-18
- B. Approval on second and final reading of Ordinance 2016-01, amending the "Food and Food Establishment Ordinance," Codified as Chapter 58 of the Weslaco Code of Ordinances and authorize the Mayor to execute any related documents. (First reading of Ordinance 2016-01 held January 5, 2016; Staffed by Planning and Code Enforcement Department.) Attachment. 19-20

V. **APPOINTMENTS**

Standard Documentation on Appointments 21-25

- A. Discussion and consideration to approve Resolutions 2016-02 and 2016-03 appointing members to the Ambulance Advisory Board. Possible action. (Staffed by Fire Department.) Attachment. 26-28

VI. **OLD BUSINESS**

- A. Discussion and consideration after public hearing on behalf of Don Capetillo to approve a Conditional Use Permit to operate a daycare at 2009 N. International Blvd, also being the South 1.74 acres of the North 4.05 acres of the South 9.99 acres of Farm Tract 1040, Adams Tract Subdivision, Weslaco, Hidalgo County, Texas and authorize the Mayor to execute any related documents. Possible action. (This item was tabled on January 5, 2016; Staffed by Planning and Code Enforcement Department.) Attachment. 29-36
- B. Discussion and consideration to approve Ordinance 2015-43 annexing additional territory to the corporate limits of the City of Weslaco, Hidalgo County, Texas on voluntary petition of land owner Southern Oaks Ranch 37-40

Phase II, such land being 4.13 acres situated in and a part of Farm Tract No. 771, West Tract Subdivision, Weslaco, Hidalgo County, Texas, located 450 feet west of Mile 3½ West Road, on the south side of Mile 6 and authorize the Mayor to execute any related documents. First reading of Ordinance 2015-43. Possible action. (Staff directed to review previous annexation on December 15, 2015 and January 5, 2016; Staffed by Planning and Code Enforcement Department.) Attachment.

VII. NEW BUSINESS

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| A. | Discussion and consideration after public hearing on behalf of Murphy Oil USA, Inc. for approval of a Conditional Use Permit to obtain a Wine and Beer Retailer's Off-Premises Permit at 215 E. Interstate 2, also being Lot 1B, Block 1, Replat of Walmart Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. | 41-55 |
| B. | Discussion and consideration after public hearing on behalf of 422 E. 18th Street, LLC for a Conditional Use Permit to operate an assisted living facility at 422 E. 18th St., also being Lot 1, Regency Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. | 56-65 |
| C. | Discussion and consideration after public hearing on behalf of Montana Garcia for a Conditional Use Permit to operate a daycare at 915 E. Sugarcane Dr., also being 0.37 acres S200.88'-E80'-W211' out of Farm Tract 58, West Tract Subdivision, Weslaco, Hidalgo County, Texas. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. | 66-76 |
| D. | Discussion and consideration after public hearing on behalf of Primitas, 7 LP to approve Ordinance 2016-02 to rezone 1501 N. Border Ave., also being 20.00 acres out of Farm Tract 131, West Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling District to R-2 Duplex and Apartments District. First reading of Ordinance 2016-02. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. | 77-89 |
| E. | Discussion and consideration to approve the release of retainage of 2.5% of the contract for CDM Constructors, Inc. for the Water Treatment Plant Expansion project in amount not to exceed \$846,081.52. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. | 90 |
| F. | Discussion and consideration to approve the Contingency Fund Request (CFR) to the contract with CDM Constructors, Inc. for the Water Treatment Plant Expansion project in a combined amount not to exceed \$262,512.00 as follows: | 91-92 |

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| a) CFR #19 – Existing pipe penetrations at Plant 1 - \$503.00; | 93-97 |
| b) CFR #21 – Rework of water break - \$13,495.00; | 98-104 |
| c) CFR #22 – CCI’s concrete, excavation and backfill for Rosendin - \$8,411.00; | 105-106 |
| d) CFR #23 – Reroute of dewatering drain line - \$18,942.00; | 107-114 |
| e) CFR #109 – Re-route 2” service wash lines – \$4,377.00; | 115-121 |
| f) CFR #112 – Raw Water Flow Meter and Duck Bill Check Valve - \$38,661.00; | 122-126 |
| g) CFR #113 – Plant 4 Clarifier Isolation Valve - \$6,706.00; | 127-129 |
| h) CFR #114 – Raw water gate, replace gate at exist RW pump station - \$29,834.00; | 130-133 |
| i) CFR #115 – Assist City with pumps for Clarifier #1 - \$8,135.00; | 134-135 |
| j) CFR #117 – Assist City at gravity thickener - \$14,036.00; | 136-137 |
| k) CFR #118 – Drain Lift Station Valves and piping - \$36,752.00; | 138-148 |
| l) CFR #119 – Changes to piping replacement at Plants 3-4 pipe gallery - \$20,218.00; | 149-166 |
| m) CFR #120 – Capping of irrigation line- \$7,503.00; | 167-171 |
| n) CFR #121 – Increase landing/support pad for generator steps - \$2,708.00; | 172-173 |
| o) CFR #123 – Reroute piping for flowmeter at water recycle line - \$8,948.00; | 174-179 |
| p) CFR #124 – Modifications to existing recycle system - \$3,310.00; | 180-187 |
| q) CFR #126 – Backwater valve for dewatering drain line - \$6,342.00; | 188-191 |
| r) CFR #127 – Drain lift station bypass pass - \$9,983.00; | 192-196 |
| s) CFR #128 – Material purchase for City changes to distribution 16” to 6” - \$2,277.00; | 197-201 |
| t) PCO #36 – Site bollards - \$10,450.00; | 202-203 |
| u) PCO #39 – Site electrical pads - \$9,232.00; | 204-205 |
| v) PCO #43 – \$3,689.00. | 206-208 |

Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment.

- G. Discussion and consideration to authorize the solicitation of Request for Bids (RFB) for Animal Shelter Expansion at 1912 Joe Stephens Avenue. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment. 209-212
- H. Discussion and consideration to review and prioritize the street improvement schedule. Possible action. (Staffed by Public Works Department.) Attachment. 213-214
- I. Discussion and consideration to approve a three-year Enterprise Agreement for Microsoft products, including server and desktop software and email services, in an amount not to exceed \$75,000.00/annually as budgeted and authorize the Mayor to execute any related documents. Possible action. (Staffed by IT Department.) Attachment. 215-219

- J. Discussion and consideration to adopt a policy for the write-off of uncollectible EMS billings. Possible action. (Staffed by Finance Department.) Attachment. 220-223
- K. Discussion and consideration to approve Ordinance 2016-03, amending Ordinance 2015-26 establishing the Fire Equipment Replacement Fund, to change from 25% of the gross revenue to the total collections. First Reading of Ordinance 2016-03. Possible action. (Staffed by Finance Department.) Attachment. 224-227

VIII. REPORTS

- A. Report by Hidalgo County Precinct #1 on Road Projects.

IX. EXECUTIVE SESSION

Texas Government Code, Section 551 Open Meetings:

§551.145. Closed Meeting Without Certified Agenda or Tape Recording; Offense; Penalty

(a) A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a tape recording of the closed meeting is not being made.

(b) An offense under Subsection (a) is a Class C misdemeanor.

§551.146. Disclosure of Certified Agenda or Tape Recording of Closed Meeting; Offense; Penalty; Civil Liability

(a) An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public under this chapter:

(1) commits an offense; and

(2) is liable to a person injured or damaged by the disclosure for:

(A) actual damages, including damages for personal injury or damage, lost wages, defamation, or mental or other emotional distress;

(B) reasonable attorney fees and court costs; and

(C) at the discretion of the trier of fact, exemplary damages.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) It is a defense to prosecution under Subsection (a)(1) and an affirmative defense to a civil action under Subsection (a)(2) that:

(1) the defendant had good reason to believe the disclosure was lawful; or

(2) the disclosure was the result of a mistake of fact concerning the nature or content of the certified agenda or tape recording. [Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.]

NOTE: Any documentation related to the following items will be maintained as part of the certified agenda.

- A. Personnel - Discussion regarding the goals, objectives, and evaluation of the City Manager for the City of Weslaco as authorized by §551.074 of the Texas Government Code.
- B. Pending Litigation - Consultation with City Attorney regarding *City of Weslaco v. Briones Consulting and Engineering* as authorized by §551.071 of the Texas Government Code.
- C. Pending Litigation – Consultation with City Attorney regarding Cause No. C-0435-13-A, *Richard Stubbs v. The City of Weslaco, Texas; Veronica*

Ramirez, in her official capacity as Weslaco Civil Service Director, as authorized by §551.071 of the Texas Government Code.

- D. Potential Litigation - Consultation with City Attorney regarding Notice of Claim for Breach of Contract and Intent to Sue from Francisco J. Garza as authorized by §551.071 of the Texas Government Code. (This item was tabled December 15, 2015.)
- E. Economic Development – Consultation with City Attorney regarding Economic Development Projects related to industrial prospects, including Project Chicken Hatch, as well as retail and airport development as authorized by §551.087 of The Texas Government Code.
- F. Economic Development – Consultation with City Attorney on the purchase, exchange, lease or value of real property at the Mid Valley Airport with TR Valley Aviation LLC as authorized by §551.072 of the Texas Local Government Code.
- G. Pending Litigation - Consultation with City Attorney regarding Cause No. C-6090-14-B, *Zequiel Montez, Gabriel Montez, Nora Montez, Irma M. Torres and Norma Garcia v. City of Weslaco* as authorized by §551.071 of the Texas Government Code.
- H. Pending Litigation - Consultation with Attorney to give a legal briefing regarding Civil Case No. 7:15-CV-334 *Alvino Flores v. City of Weslaco, et al.* in the United States District Court for the Southern District of Texas – McAllen Division as authorized by §551.071(1) of the Texas Government Code.

X. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION

XI. ADJOURNMENT

I hereby certify this **Notice of a Regular Meeting of the Weslaco City Commission** was posted in accordance with the Open Meetings Act on the outside bulletin board at City Hall of the City of Weslaco, located at the 255 South Kansas Avenue entrance, visible and accessible to the general public during and after regular working hours. This notice was posted on this 19th day of January 2016 at 4:10 p.m. and will remain so posted continuously for at least 72-hours preceding the scheduled time of this meeting in accordance with Chapter 551 of the Texas Government Code.

/s/ Elizabeth M. Walker, City Secretary

NOTE: If any accommodation for a disability is required, please notify the City Secretary's Office at (956) 968-3181, Ext. 3100 prior to the meeting date.

Removed from Bulletin Board

Date:

Initials: